

REMARKS

Upon entry of the amendments made herein, claims 1-15, 48-51, and 54 will be pending in this application. Applicants have herein amended claims 1, and 48-51. New claim 54 has been added. Claims 16, 32 and 33 are canceled herein without prejudice or disclaimer. Claims 17-31, 34-47 and 52-53 are presently withdrawn. Accordingly, claims 1-15, 48-51, and 54 are currently before the Examiner.

No new matter has been added by this amendment.

35 U.S.C. § 112, second paragraph

Claims 1-15 and 48-51 were rejected for indefiniteness. The Examiner stated:

In the present instance, claims 1 and 47 includes broad recitations of a variety of potential composition components, for example Vitamins A, B6, B12, C, D, and E, Thiamin, Niacin, folate, and so on while also reciting specific compounds which provide the claimed nutrients; these are the narrower statements of the limitation.

Applicants have amended the claims to clarify the scope/identity of each ingredient of the composition. Withdrawal of this rejection is therefore requested.

35 U.S.C. § 103

The claims were rejected for obviousness based on a number of combinations of cited prior art references. Each combination of references is discussed below.

Claims 1-4, 8-14, and 51

Claims 1-4, 8-14, and 51 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,103,756 ("Gorsek"), in view of Narsing Rao and Guey-Shang Wu, Free Radical Mediated Photoreceptor Damage in Uveitis, 19 PROG. RETINAL EYE RES. 41 (2000) ("Rao"). The Examiner stated:

As a threshold matter, the examiner has interpreted instant Claims 1, 47, and all claims dependent therefrom as requiring the administration of at least a carotenoid and polyphenol selected from the list of compounds in the daily dosages provided in these Claims. In essence, the examiner considers the chart provided in these claims the enumeration of a variety of species in a genus in the manner of a Markush-type Claim.

Applicants have amended the claims to clarify that the list of compositions comprises not a list of a variety of species in a genus in the manner of a Markush-type claim, but a list of required ingredients in the required dosage ranges recited by the claims. Accordingly, Applicants submit that the combination of cited references neither discloses nor suggests the invention as now claimed.

Claims 1-14 and 51

Claims 1-14 and 51 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gorsek as modified by Rao as applied to Claims 1-4, 8-14, and 51 above, and further in view of U.S. Patent Application Publication 2002/0095000 ("Troyer"). The Examiner stated:

It would have been prima facie obvious to one having ordinary skill in the art at the time of the instant invention to have combined the omega-3 and omega-6 fatty acid composition of Troyer with the composition of Gorsek as modified by Rao to arrive at the composition used in the methods of the instant claims. One of ordinary skill in the art would have been motivated to do so because both compositions are directed to the treatment of ocular diseases and the promotion of ocular health, and it is prima facie obvious to combine two elements known by the art as useful for the same purpose to achieve a third element for achieving the exact same purpose. MPEP § 2144.06.

Applicants arguments have been fully considered and are deemed unpersuasive, as the examiner has indicated that the doses of the specific carotenoids and polyphenols listed above are in fact disclosed in Gorsek.

Applicants submit that given the amendment and clarification regarding the scope of the claims, Gorsek as modified by Rao in further view of Troyer, the claims are patentably distinct over this combination of references.

Claims 1-4, 8-15, and 51

Claims 1-4, 8-15, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorsek as modified by Rao as applied to Claims 1-4, 8-14, and 51 above, and further in view of U.S. Patent 6,365,622 ("Cavazza"). With respect to this combination of references, the Examiner states:

Gorsek as modified by Rao, above, describes the treatment of ocular inflammation or macular degeneration using an antioxidant composition, but does not include L-carnitine in the composition.

Cavazza teaches that L-carnitine is a powerful antioxidant suitable for oral or topical administration in the treatment of diseases brought about by free radicals. (C.1, L.6-8; L.19-28).

In view of the amendment to clarify the scope of the claimed invention, Applicants request withdrawal of this rejection. Therefore, the amended claims are non-obvious over these references.

Claims 1-4, 8-14, and 48-51

Claims 1-4, 8-14, and 48-51 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gorsek as modified by Rao as applied to Claims 1-4, 8-14, and 51 above, and further in view of C. Leigh Broadhurst, et al, Insulin-like Biological Activity of Culinary and Medicinal Plant Aqueous Extracts in Vitro, 48 J. AGRIC. FOOD CHEM. 849 (2 March 2000) (hereinafter "Broadhurst"), and Judy McBride, Cinnamon Extracts Boost Insulin Sensitivity, AGRIC. RES. 21 (July 2000) (hereinafter "McBride").

The latter reference was cited simply for the disclosure that cinnamon, in the form of powder ground from bark (Pg. 849), contain high levels of chalcone polymers. There is no suggestion whatsoever to use cinnamon for the indications claimed, nor in the specific formulation of ingredients as now recited by the amended claims. Applicants therefore request withdrawal of this ground of rejection.

CONCLUSION

Applicants believe that the claims are now in condition for allowance. If there are any questions, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

The Commissioner is hereby authorized to credit any overpayment or charge any deficiencies to Deposit Account No. 50-0311 (Reference No. 41108-503N01US).

Respectfully submitted,

/Ingrid A. Beattie/
Ingrid A. Beattie, Reg. No. 42,306
Attorney for Applicants
c/o MINTZ LEVIN
Tel.: (617) 542 6000
Fax: (617) 542-2241
Address all correspondence to
Customer Number 30623

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